

AMENDED IN ASSEMBLY MAY 12, 2003

AMENDED IN ASSEMBLY MAY 5, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 878

Introduced by Assembly Member Pavley

February 20, 2003

~~An act to amend Sections 6055, 6077.5.5, 6077.6, and 6084 of An act to amend Sections 6055 and 6077.6 of, and to add Sections 6084.1 and 6084.2 to, the Harbors and Navigation Code, relating to harbor districts.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 878, as amended, Pavley. Harbor districts.

(1) Existing law contains various provisions relating to the creation of a harbor commission for each harbor district and the election, terms, and powers of harbor commissioners.

This bill would make changes to commissioners' titles, and authority over certain land and funds.

(2) ~~Existing law authorizes the Oxnard Harbor District, under specified circumstances, to acquire, purchase, take over, construct, maintain, operate, develop, and regulate airports and roads.~~

~~This bill would authorize the Oxnard Harbor District to additionally exercise those options, under those circumstances, for energy related facilities.~~

(3) ~~Existing law authorizes a harbor district to order by resolution that all or any of the funds under its control and not necessary for current~~

operating expenses be invested in obligations, bonds, or securities of the United States of America or of any agency or instrumentality thereof.

This bill would instead authorize those funds to be invested as specified.

~~(4)~~

(3) Existing law authorizes the board of a harbor district, *to borrow up to \$1,000,000 by issuance of a promissory note* for the purposes of acquiring land for, and constructing or operating, a work, project, or facility authorized under specified law, ~~to borrow up to \$1,000,000 by issuance of a promissory note, or~~. Existing law also authorizes a board to execute a conditional sales contract to purchase personal property with a value up to \$1,000,000. Existing law prohibits the borrowing term from exceeding 5 years. This provision does not apply to money borrowed from an agency or department of the United States government or the State of California.

~~This bill would increase the maximum borrowing amount and conditional sales contract value to \$5,000,000 and would increase the borrowing term to 10 years.~~

This bill would authorize a district to borrow money and incur indebtedness through negotiable promissory notes in order to meet its short-term needs, or through limited obligation notes for any purpose, after adoption, by ⁴/₅ vote of the board, of a resolution. The bill would set the maximum interest rate and maturity dates on the notes and would require that the outstanding amount of each type of note at any one time not exceed \$5,000,000.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6055 of the Harbors and Navigation
2 Code is amended to read:
3 6055. The commissioners elected at the first election shall,
4 within 10 days from the date of the canvass of the returns of the
5 election, enter upon the duties of office. Before entering upon the
6 duties of his or her office, each commissioner shall take and
7 subscribe the official oath before the secretary or an officer
8 authorized by law to administer oaths and shall file it with the
9 county elections official of the county in which the district is
10 situated.

1 They shall elect one of their number as president or chair person
2 and one of their number as secretary. The president or chair person
3 and secretary shall serve at the pleasure of the board.

4 ~~SEC. 2. Section 6077.5.5 of the Harbors and Navigation Code~~
5 ~~is amended to read:~~

6 ~~6077.5.5. Notwithstanding any other provision of this part,~~
7 ~~the Oxnard Harbor District may acquire, purchase, take over,~~
8 ~~construct, maintain, operate, develop, and regulate airports,~~
9 ~~energy related facilities, and roads with the prior consent of each~~
10 ~~district, port, city, or county in which the lands are located.~~

11 ~~SEC. 3.—~~

12 ~~SEC. 2. Section 6077.6 of the Harbors and Navigation Code~~
13 ~~is amended to read:~~

14 ~~6077.6. A harbor district may by resolution order that all or~~
15 ~~any of the funds under its control and not necessary for current~~
16 ~~operating expenses be invested in accordance with Section 53601~~
17 ~~of the Government Code.~~

18 ~~SEC. 4. Section 6084 of the Harbors and Navigation Code is~~
19 ~~amended to read:~~

20 ~~6084. (a) (1) Notwithstanding any other provision of this~~
21 ~~part, the board may borrow money by issuance of a promissory~~
22 ~~note, or the board may execute a conditional sales contract to~~
23 ~~purchase personal property, in an amount or of a value not~~
24 ~~exceeding in the aggregate at one time the sum of five million~~
25 ~~dollars (\$5,000,000) for the purposes of acquiring land for and~~
26 ~~constructing or operating a work, project, or facility authorized by~~
27 ~~subdivision (d) of Section 6012 or Section 6075 or for the making~~
28 ~~of improvements or the purchase of equipment or for the~~
29 ~~maintenance thereof.~~

30 ~~(2) The board may not borrow money pursuant to this section~~
31 ~~for a term exceeding 10 years, and the indebtednesses may not~~
32 ~~incur a rate of interest in excess of 12 percent per annum. The~~
33 ~~indebtedness shall be authorized by a resolution of the board of~~
34 ~~commissioners adopted by a two-thirds vote of the members of the~~
35 ~~board.~~

36 ~~(3) As a condition precedent to the borrowing of money or the~~
37 ~~execution of a conditional sales contract, as provided in this~~
38 ~~section, in excess of one hundred thousand dollars (\$100,000), the~~
39 ~~board shall first, by a two-thirds vote, approve by resolution and~~
40 ~~have on file a report on the engineering and economic feasibility~~

1 ~~relating to the project contemplated for the expenditure of the~~
2 ~~borrowed money or conditional sales contract. The feasibility~~
3 ~~report shall be prepared and signed by an engineer or engineers~~
4 ~~licensed and registered under the laws of the State of California.~~

5 ~~(4) The district shall budget and, upon the vote of two-thirds of~~
6 ~~the qualified voters within the district, may levy and collect taxes~~
7 ~~and pay for all indebtedness without limitation by any other~~
8 ~~provision of this part.~~

9 ~~(b) Subdivision (a) does not apply to money borrowed from an~~
10 ~~agency or department of the United States government or of the~~
11 ~~State of California.~~

12 *SEC. 3. Section 6084.1 is added to the Harbors and*
13 *Navigation Code, to read:*

14 *6084.1. (a) A district may borrow money and incur*
15 *indebtedness pursuant to this section to meet the short-term needs*
16 *of the district by action of the board and without the necessity of*
17 *calling and holding an election in the district.*

18 *(b) (1) Negotiable promissory notes may be issued after the*
19 *adoption, by a four-fifths vote of all the commissioners of the*
20 *board, of a resolution setting forth the form of the notes, the*
21 *maturity date or dates thereof, and the manner of execution*
22 *thereof. The maturity date or dates may not be later than five years*
23 *from the date of the board resolution, and the total aggregate*
24 *amount of the notes outstanding at any one time for the district may*
25 *not exceed the sum of five million dollars (\$5,000,000).*

26 *(2) Negotiable promissory notes shall bear interest at a rate not*
27 *exceeding the rate permitted under Article 7 (commencing with*
28 *Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the*
29 *Government Code. The notes shall be general obligations of the*
30 *district, payable from revenues and taxes, unless paid from other*
31 *available funds of the district, but in no event to exceed the existing*
32 *tax revenue of the district, in the same manner as bonds of the*
33 *district.*

34 *SEC. 4. Section 6084.2 is added to the Harbors and*
35 *Navigation Code, to read:*

36 *6084.2. (a) A district may issue limited obligation notes after*
37 *the adoption, by a four-fifths vote of all the commissioners of the*
38 *board, of a resolution reciting each of the following:*

39 *(1) That the resolution is being adopted pursuant to this*
40 *subdivision.*

1 (2) *The purposes of incurring the indebtedness.*

2 (3) *The estimated amount of the indebtedness.*

3 (4) *The maximum amount of notes to be issued, and the source*
4 *of revenue or revenues to be used to secure the limited obligation*
5 *notes.*

6 (5) *The maturity date of the limited obligation notes.*

7 (6) *The form of the limited obligation notes.*

8 (7) *The manner of execution of the limited obligation notes.*

9 (b) *The resolution may also provide for one or more of the*
10 *following matters:*

11 (1) *Insurance for the limited obligation notes.*

12 (2) *Procedures in the event of default, terms upon which the*
13 *limited obligation notes may be declared due before maturity, and*
14 *the terms upon which that declaration may be waived.*

15 (3) *The rights, liabilities, powers, and duties arising upon the*
16 *district's breach of an agreement with regard to the limited*
17 *obligation notes.*

18 (4) *The terms upon which the holders of the limited obligation*
19 *notes may enforce agreements authorized by this section.*

20 (5) *A procedure for amending or abrogating the terms of the*
21 *resolution with the consent of the holders of a specified percentage*
22 *of the limited obligation notes. If the resolution contains this*
23 *procedure, the resolution shall specifically state the effect of*
24 *amendment upon the rights of the holders of all of the limited*
25 *obligation notes.*

26 (6) *The manner in which the holders of the limited obligation*
27 *notes may take action.*

28 (7) *Other actions necessary or desirable to secure the limited*
29 *obligation notes or tending to make the notes more marketable.*

30 (c) *The limited obligation notes shall bear interest at a rate not*
31 *exceeding the rate permitted under Article 7 (commencing with*
32 *Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the*
33 *Government Code.*

34 (d) *The limited obligation notes may not mature later than 10*
35 *years after the date of the issuance of the notes, and the total*
36 *amount of the limited obligation notes outstanding at any one time*
37 *for the district may not exceed the sum of five million dollars*
38 *(\$5,000,000).*

39 (e) *The agreement between the district and the purchasers of*
40 *the limited obligation notes shall state that the notes are limited*

1 obligation notes payable solely from specified revenue of the
2 district. The pledged revenue shall be sufficient to pay the
3 following amounts annually, as they become due and payable:

4 (1) The interest and principal on the notes.

5 (2) Payments required for compliance with the resolution
6 authorizing issuance of the notes or agreements with the
7 purchasers of the notes.

8 (3) Payments to meet any other obligations of the district that
9 are charges, liens, or encumbrances on the pledged revenue.

10 (f) The limited obligation notes are special obligations of the
11 district, and shall be a charge against, and secured by a lien upon,
12 and payable, as to the principal thereof and interest thereon, from
13 the pledged revenue. If the revenue described in the authorizing
14 resolution is insufficient for the payment of interest and principal
15 on the notes, the district may make payments from any other funds
16 or revenues that may be applied to their payment. The revenue and
17 any interest earned on the revenue constitute a trust fund for the
18 security and payment of the interest on and principal of the notes.

19 (g) So long as any limited obligation notes or interest thereon
20 are unpaid following their maturity, the pledged revenue and
21 interest thereon may not be used for any other purpose.

22 (h) If the interest and principal on the limited obligation notes
23 and all charges to protect them are paid when due, the district may
24 expend the pledged revenue for other purposes.

25 (i) Limited obligation notes of the same issue shall be equally
26 secured.

27 (j) The general fund of the district is not liable for the payment
28 of the principal or the interest on the limited obligation notes.

29 (k) The holders of the limited obligation notes may not compel
30 the exercise of the taxing power by the district, other than the
31 revenue pledged, or the forfeiture of the district's property.

32 (l) Every agreement shall recite in substance that the principal
33 of, and interest on, the limited obligation notes are payable solely
34 from the revenue pledged to the payment of the principal and
35 interest and that the district is not obligated to pay the principal
36 or interest except from the pledged revenue.